

Adam D. Fuller

From: Folland, Rob <Rob.Folland@btlaw.com>
Sent: Thursday, October 27, 2022 1:49 PM
To: Justin M. Alaburda
Cc: Victoria Ferrise; Adam D. Fuller; Dunham, Courtney; Paragas, David; DeVillers, David
Subject: EGCC / SRC Collaboration Agreement
Attachments: 2022.10.27_EGCC_Correspondence.pdf

****External User****

Please see the attached correspondence.

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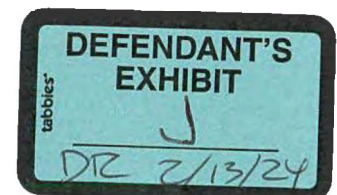


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EXHIBIT 3





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October 27, 2022

VIA U.S. MAIL AND ELECTRONIC MAIL

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Re: *Eastern Gateway Community College's Collaboration Agreement with SRC*

Dear Mr. Alaburda,

I write this letter because it has come to my attention that your client, Eastern Gateway Community College ("EGCC"), has reached out to Student Resource Center, LLC ("SRC"), requesting it to resume performance under the Collaboration Agreement in light of the court's Opinion and Order in *Eastern Gateway Community College v. Cardona*, Case No 2:22-cv-3326 (ECF No. 37) (the "DOE Litigation").

As an initial matter, we note that this request for assistance demonstrates the frivolous nature of EGCC's Counterclaim in the pending litigation between SRC and EGCC. It is unclear how on the one hand, EGCC can maintain a Counterclaim that SRC's performance is so lacking that it "materially breached" several sections of the Collaboration Agreement, while on the other hand EGCC begs for the resumption of these exact same services now that EGCC's need for them has resumed. Please confirm that EGCC intends to dismiss these frivolous claims in light of its current requests for assistance.

Separately, EGCC currently owes an outstanding balance of \$832,285.81 in operating expenses previously submitted to EGCC on October 27, 2022 and an outstanding balance of \$6,941,363.03 in profit share amounts that was due and owing on September 30, 2022 pursuant to Exhibit B to the Collaboration Agreement. While EGCC contends that the amount of profit share owed is somehow less due to "errors in calculating the revenue attributable to the Program since 2015," SRC's calculation is based off EGCC's own financial records. Moreover, despite SRC's requests, EGCC has failed to provide any documentation to support its claim. EGCC's actions constitute an ongoing material breach of the Collaboration Agreement. These amounts are wrongfully withheld and EGCC must reimburse SRC for its unpaid operating expenses and profit share amounts before

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addressing EGCC's requests for support.

Further, EGCC remains in default under Section 4.5 of the Collaboration Agreement resulting from its failure to keep the Free College Benefit program in compliance with applicable United States Department of Education rules, regulations, standards, and policies. As you are aware, the court's "Opinion and Order" does not resolve the substantive claims identified by the United States Department of Education in its July 18, 2022 letter to President Geoghegan, which indicated that EGCC's Free College Benefit program "violates the Title IV prohibition against assessing charges to Title IV recipients that are higher than those charges assessed to non-Title IV recipients." See (DOE Litigation ECF No. 1-1).

Given the United States Department of Education's position, before SRC can consider further support of the Collaboration, EGCC must provide written assurance to SRC of its representations and warranties meted out under the Collaboration Agreement, including but not limited to EGCC's present compliance with all Governmental Authority or Educational Agency judgments, decrees, orders, statutes, rules, regulations, standards, or policies. EGCC must also agree to hold SRC harmless and provide indemnification. In addition, EGCC must provide written explanation of how it intends to address and resolve the concerns identified by the United States Department of Education's July 18, 2022 letter.

I look forward to your response and cooperation.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert Folland", written in a cursive style.

Robert Folland

cc: David Paragas, Esq. (via e-mail)
Dave DeVillers, Esq. (via e-mail)
Jeff Bartolozzi, Esq. (via e-mail)
Victoria Ferrise, Esq. (via e-mail)
Adam Fuller, Esq. (via e-mail)